



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2011 REGULAR SESSION

HOUSE BILL NO. 26

AS ENACTED

MONDAY, MARCH 7, 2011

RECEIVED AND FILED
DATE March 17, 2011
12:24pm

ELAINE N. WALKER
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY L. Adkins

1 AN ACT relating to wastewater.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) The General Assembly finds that regionalization of utility services can benefit*
6 *Kentuckians by sharing the capital and operating costs of facilities among many*
7 *users while protecting and enhancing the water quality of the Commonwealth's*
8 *watersheds, creeks, lakes, and rivers. The General Assembly additionally finds*
9 *and declares that:*

10 *(a) Continued economic growth in the Commonwealth is dependent upon the*
11 *expansion of infrastructure to promote industrial, commercial, and*
12 *residential development;*

13 *(b) Industrial, commercial, institutional, and residential development must be*
14 *undertaken in a manner consistent with applicable planning, and in a*
15 *manner that safeguards the waters of the Commonwealth from pollution;*

16 *(c) The challenges of improving and safeguarding the quality of the*
17 *Commonwealth's watersheds, creeks, streams, lakes, and rivers through*
18 *improvements in wastewater infrastructure and expanded wastewater*
19 *treatment capacity favor a cooperative, regional approach;*

20 *(d) The Base Realignment and Closure (BRAC) Commission has realigned the*
21 *mission at Fort Knox, a one hundred nine thousand (109,000) acre military*
22 *reservation located in three (3) counties of the Commonwealth, resulting in*
23 *significant economic expansion in the region encompassing the post;*

24 *(e) The ongoing regional economic expansion in the Fort Knox area of*
25 *Hardin, Bullitt, and Meade counties resulting from BRAC, and the*
26 *industrial, commercial and residential development throughout the Salt*
27 *River Basin, including expansion in the adjacent counties of Oldham and*

Jefferson, provide a unique opportunity to illustrate the advisability of adopting a regionally integrated approach to wastewater management as a cost-effective and more affordable way to preserve Kentucky's water resources; and

(f) It is, therefore, the intent of the General Assembly to authorize the creation of a regional wastewater commission in accordance with Sections 1 to 12 of this Act, within the counties of Bullitt, Hardin, Jefferson, Meade, and Oldham, or portions of those counties, for the purposes of preserving water quality and developing infrastructure in the Salt River Basin sufficient to promote and sustain industrial, commercial, and residential development.

(2) Sections 1 to 12 of this Act shall constitute full and complete authority for the creation of a regional wastewater commission and for carrying out the powers and duties of the commission.

→SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 12, and 14 of this Act, the following definitions shall apply:

(1) "Commission" means a regional wastewater commission established pursuant to Section 3 of this Act;

(2) "Member entity" means any of the following entities located in the counties of Bullitt, Hardin, Jefferson, Meade, or Oldham, that are participating in or that are eligible to participate in a regional wastewater commission:

(a) A city that owns a wastewater system;

(b) An urban-county government that owns a wastewater system;

(c) A sanitation district created pursuant to KRS Chapters 67 and 220;

(d) A metropolitan sewer district or a joint sewer agency established under KRS Chapter 76;

(e) A water district that owns a wastewater system established under KRS

Chapter 74; and

(f) An agency of the federal, state, or local government owning a wastewater system subject to regulation by the Kentucky Division of Water;

(3) "Organizing official" means the chief elected official of the unit of general purpose local government elected by a majority vote of the member entities. The organizing official may be a county judge/executive, a city mayor, or a mayor of an urban-county government or a consolidated local government; and

(4) "Wastewater" means raw, untreated, or partially treated sewage and other polluted waters collected by lateral and main lines from residential, commercial, and industrial customers of wastewater systems owned by or under contract with a member entity of a commission and properly conveyed to designated receiving points for further transportation or treatment. "Wastewater" includes stormwater.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any two (2) or more member entities owning wastewater systems may jointly:

(a) Acquire and construct wastewater collection, transportation, and treatment facilities;

(b) Operate and manage those facilities; and

(c) Improve and extend those facilities in any manner permitted under law.

(2) The governing body of a member entity owning a wastewater system that wants to form a regional wastewater commission shall adopt a resolution or ordinance electing to participate with other member entities to perform any of the functions authorized under subsection (1) of this section.

(3) Upon the adoption of an ordinance or resolution by the governing body of each member entity or a decision by a local, state, or federal agency owning a wastewater system to participate in a commission, a certified copy of each

1 member entity's action shall be filed with the organizing official.

2 (4) Prior to the adoption by the governing body of any member entity of a resolution
 3 or ordinance proposing participation in a commission, that governing body shall
 4 publish notice in accordance with KRS Chapter 424 and shall set a date for a
 5 public hearing regarding the creation of the commission and shall give at least
 6 thirty (30) days' prior notice of the hearing. The notice shall include at a
 7 minimum:

8 (a) An explanation of the scope of the geographic area proposed to be served by
 9 a commission; and

10 (b) A description of the anticipated benefits to the residents in the geographic
 11 area served by the member entity of membership by that entity in a
 12 commission.

13 A resident, sewer customer, or citizen of the Commonwealth affected by a
 14 member entity proposing to establish a commission may submit written or oral
 15 comments and objections to the member entity, which shall provide a written
 16 statement of consideration of comments received.

17 (5) The member entity shall enter an order of decision along with specific findings
 18 for the decision. The organizing official among the member entities seeking to
 19 form a commission shall establish the commission designating it as a "regional
 20 wastewater commission" if, after the public hearing and consideration of all
 21 comments and objections received, those member entities have adopted a
 22 resolution or ordinance, as appropriate, finding that:

23 (a) The establishment of a commission is in the furtherance of the public
 24 health, convenience, and benefit to the customers of the member entities
 25 proposing the creation of the commission; and

26 (b) The establishment of a commission can reasonably be expected to result in
 27 the improvement of the environment over that which would occur in the

absence of the formation of the commission.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
READ AS FOLLOWS:

(1) After establishment of a commission, the chief executive officer of each member entity shall appoint one (1) commissioner to represent that member entity. A commissioner shall be a customer, a resident, or an authorized representative of the member entity, and shall be a resident of the county where the member entity that the commissioner is appointed to represent is located. The appointment shall be subject to the approval of the governing body of that member entity.

(2) There shall be no fewer than three (3) commissioners appointed by member entities to a commission, and the commission shall always have an odd number of commissioners. If the total number of commissioners is less than three (3) or is an even number, then the legislative bodies for the geographic areas served by the two (2) member entities shall jointly appoint one (1) additional member. The additional member shall be a resident of either of the service areas of the two (2) member entities.

(3) Commissioners shall serve a term of four (4) years and may be reappointed. Terms shall commence from the first day of the month when the order establishing the commission was entered. Upon the expiration of a commissioner's term, a successor shall be appointed in the manner of the commissioner's original appointment. Each commissioner shall serve until a qualified successor is appointed, and any vacancy shall be filled for the balance of the unexpired term.

(4) Initial commissioners shall serve the following terms:

(a) One-third (1/3) of the commissioners shall serve for a term of two (2) years;

(b) One-third (1/3) of the commissioners shall serve for a term of three (3) years; and

1 (c) The remaining commissioners shall serve for a term of four (4) years.

2 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
3 READ AS FOLLOWS:

4 (1) Any entity listed in subsection (2) of Section 2 of this Act that did not participate
5 in the initial creation of the commission may elect to participate in the operation
6 and appoint a commissioner to an existing commission. To elect participation,
7 the governing body of the prospective member entity shall follow the process set
8 forth in subsections (2) to (5) of Section 3 of this Act.

9 (2) After the process set forth in subsections (2) to (5) of Section 3 of this Act is
10 complete, inclusion of the prospective member entity in the existing commission
11 shall be granted if the organizing official finds that such inclusion:

12 (a) Satisfies the criteria set forth in subsection (5)(a) and (b) of Section 3 of this
13 Act; and

14 (b) Will assist in achievement of the purposes of this Act and will be
15 advantageous both for the customers of the prospective member entity and
16 for the customers of the existing member entities of the commission.

17 (3) If inclusion is granted, the organizing official shall enter an order authorizing
18 the inclusion of the member entity. The chief executive officer of the member
19 entity shall appoint a commissioner to the commission in accordance with the
20 process and restrictions set forth in Section 4 of this Act.

21 (4) The term of the newly appointed commissioner shall be determined in accordance
22 with subsection (4) of Section 4 of this Act, but may be adjusted by the
23 commission so that no more than one-third (1/3) of the terms of the
24 commissioners expire each year.

25 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
26 READ AS FOLLOWS:

27 (1) The commission shall organize by appointing a chair from among its members

and a secretary and a treasurer, who need not be commissioners. The secretary shall keep a record of all proceedings of the commission. The treasurer shall be the lawful custodian of all funds of the commission and shall make expenditures as authorized by the commission. The secretary and treasurer shall perform other duties pertaining to the affairs of the commission and may receive salaries prescribed by the commission.

(2) The commission shall:

(a) Adopt bylaws and rules of procedure;

(b) Establish a regular meeting time, date, and location; and

(c) Decide upon other matters for conduct of its business.

(3) The commission may employ and fix reasonable compensation for a qualified general manager and other personnel comparable to the salary and benefits of the personnel for similarly sized wastewater entities based on regional or national standards. The commission may contract with and fix reasonable compensation for the services of officers, agents, operators, and consultants, including engineers, attorneys, accountants, fiscal agents, and other professional persons.

(4) Each commissioner shall receive the same compensation fixed by agreement among the member entities and paid out of the commission's funds. Reasonable expenses incurred by a commissioner in the course of commission business shall be authorized and verified by the commission and shall be paid with commission funds.

(5) Each commissioner shall have one (1) vote on matters requiring a vote. Each commissioner, secretary, treasurer, and general manager shall be bonded for faithful performance of his or her official duties pursuant to Sections 9, 10, 11, and 12 of this Act. Bond shall be in an amount prescribed by the commission, shall be comparable to bonds required of individuals among the member entities, and the cost of bonding shall be borne by the commission.

(6) Commission meetings and records shall be subject to KRS 61.805 to 61.850 and 61.870 to 61.884, respectively.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A commissioner may be removed for cause by the chief executive officer of the member entity he or she represents. The chief executive officer shall give the commissioner thirty (30) days' written notice of the hearing. The notice shall identify the charges brought against that commissioner, and the hearing shall be conducted by an impartial hearing officer appointed by the governing body of the member entity. The commissioner may elect to be represented by private legal counsel and shall bear any cost associated with private legal counsel.

(2) After a formal evidentiary hearing under subsection (1) of this section, the hearing officer shall submit written findings to the governing body of the member entity for approval or disapproval. If the governing body approves the charges brought against the commissioner, then the position shall be declared vacant.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any member entity of the commission may withdraw its participation by submitting an ordinance or resolution, as appropriate, of its governing body to all member entities at least ninety (90) days prior to the effective date of the withdrawal, conditioned solely upon that member having made prior payment in full or making other financial arrangements agreeable to the member entities to meet contract obligations, retire any cost, or pay any portion of any debt or other obligations incurred on its behalf by the commission.

(2) Vacancies on the commission that result from a withdrawal of a member entity shall be filled in the manner prescribed in Section 4 of this Act.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) The commissioners shall constitute the managing board of the commission. The
 3 commission shall be a public corporation, and a public body corporate and
 4 politic, and a local public agency with the powers and duties in its corporate
 5 name to:

6 (a) Execute contracts or be contracted with;

7 (b) Sue and be sued;

8 (c) Adopt and alter its corporate seal, at its own pleasure;

9 (d) Make loans and issue and repay revenue bonds, or other instruments of
 10 indebtedness;

11 (e) Receive proceeds from loans and grants;

12 (f) Purchase, acquire, own, hold, and dispose of all real and personal property
 13 necessary for carrying out its corporate purposes; and

14 (g) Exercise any powers, duties, and requirements for carrying out its corporate
 15 purposes in the manner prescribed in KRS 58.010 to 58.190 and KRS
 16 Chapter 224A.

17 (2) The commission shall have full and complete supervision, management, and
 18 control over all of its facilities. The commission shall prescribe standards for the
 19 quality and characteristics of the wastewater it accepts into its facilities including
 20 standards as are required under state and federal law. All matters relating to the
 21 following shall be clearly set forth in commission policy and procedures and
 22 promulgated to the governing bodies of all the member entities of the
 23 commission:

24 (a) Procurement of professional services;

25 (b) Construction of facilities;

26 (c) Accepting, metering, conveying, and treating influent from all waste
 27 streams; and

1 (d) Handling of treatment process solids and effluent.

2 (3) It shall be the role and duty of the commission to:

3 (a) Plan for and provide site and technology appropriate facilities and services
 4 relating to any type or aspect of wastewater collection, transportation, or
 5 treatment to achieve the best benefit for the customers of its member
 6 entities;

7 (b) Protect and enhance the environmental quality of the watershed in which
 8 those facilities and services are located;

9 (c) Actively participate in the planning activities of the 2020 water management
 10 planning councils established pursuant to KRS Chapter 151, that serve the
 11 regions in which the commission has facilities;

12 (d) Use the configuration of available and proposed wastewater facilities that is
 13 the most cost-effective in safeguarding the waters of the Commonwealth
 14 from pollution, and providing wastewater infrastructure appropriate for the
 15 customers of the member entities; and

16 (e) Assure that any construction or expansion of any wastewater facility
 17 proposed by a commission is consistent with the regional facilities plan
 18 adopted by the member entities of the commission and approved by either
 19 the Division of Water or the United States Environmental Protection
 20 Agency.

21 (4) For the purpose of ensuring proper collection, transportation, and treatment of
 22 wastewater and in the furtherance of its purpose, the commission may collect and
 23 treat or contract with others to collect and treat any portion of its overall waste
 24 load.

25 (5) The commission's property and income, along with any bonds or financial
 26 instruments issued by the commission or income derived from those bonds or
 27 financial instruments, shall be exempt from taxation.

1 (6) The commission shall adopt and comply with KRS 45A.343, 45A.345 to 45A.360,
 2 45A.735, 45A.740, 45A.745, and 45A.750 of the Kentucky Model Procurement
 3 Code and conduct all its business and financial activities according to approved
 4 governmental fiscal procedure. The commission shall procure the services of a
 5 certified public accountant to conduct an audit of all funds and fiscal
 6 transactions annually, providing copies of the audit report to the governing
 7 bodies of its member entities.

8 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
 9 READ AS FOLLOWS:

10 (1) The commission shall provide all services on a wholesale contract basis and shall
 11 have no retail customers. The commission shall not be deemed a utility under
 12 KRS 278.010(3), but any contract between a commission and a utility that is
 13 regulated by the Public Service Commission regarding provision of services that
 14 would result in an increase in the rates paid by customers of that utility shall be
 15 subject to review and approval by the Public Service Commission in accordance
 16 with KRS Chapter 278. Contracts entered into between the commission and its
 17 member entities or other parties shall include covenants for the establishment of
 18 rates and charges as provided in subsection (5) of this section.

19 (2) In addition to providing services to its member entities by contract, the
 20 commission may contract with cities, city-owned utilities, urban-county
 21 governments, consolidated local governments, sanitation districts, metropolitan
 22 sewer districts, joint sewer agencies, water districts, and agencies of local, state,
 23 and federal government that are not members of the commission. The
 24 commission may contract to provide services to wastewater entities in
 25 neighboring states that are not members of the commission under terms mutually
 26 agreed upon by the respective parties.

27 (3) The commission shall not enter into a service contract with any entity that is

obtaining the same wastewater collection, transportation, or treatment services by agreement with another wastewater service provider that has incurred debt obligations or any costs attributable to the agreement that are to be retired in whole or in part from revenue generated from providing the service to the entity unless the wastewater service provider releases the entity from its wastewater service agreement.

(4) All services provided by the commission to member entities or other parties shall be set out in contracts that shall contain, at minimum, the following elements:

(a) A comprehensive description of any type of services to be provided;

(b) A statement of term, with beginning and ending times, dates, and a specific delineation of automatic term extensions of the contract, if any;

(c) A provision that the commission shall be the exclusive service provider for all or a designated geographic portion of a member entity's wastewater collection system;

(d) Statements that:

1. All service shall be metered at each point of service and that the contractee shall be responsible for initial capital costs and construction of metering stations subject to the commission's specifications;

2. The commission shall take ownership and provide security for all metering stations for purposes of management;

3. The commission shall arrange for testing of all meters according to manufacturer's recommended schedule;

4. Testing and metering station maintenance costs shall be shared equally between the commission and the contractee;

5. Metering stations shall be accessible to both parties; and

6. Meters shall be read at least monthly or more often according to a

1 mutually agreed upon schedule;

2 (e) A statement setting out allowed minimum volumes, if any, and allowed
 3 maximum volumes expressed in gallons per minute for each meter;

4 (f) Identification of collected wastewater sources and allowed quality of
 5 influent to commission facilities at each meter;

6 (g) A statement of rates and charges for access to services, for allowed
 7 minimum volumes, if any, expressed in dollars per thousand gallons, and
 8 for allowed maximum volumes, expressed in dollars per thousand gallons;

9 (h) A statement that all rates or charges are subject to adjustment based on
 10 periodic cost-of-service analyses and an associated cost-allocation plan
 11 funded equitably between the commission and contractees, and a statement
 12 that any rates and charges adjustment that may occur in the interim
 13 between the times of full cost-of-service analyses with cost-allocation plans,
 14 if any, are subject to clauses citing time frames, volumes of influent, or
 15 other triggering elements tied to designated indexing method and proper
 16 notice;

17 (i) A requirement that either party provide immediate notification to the other
 18 party regarding changes in volume or the quality of influent, instances of
 19 mechanical failure, or other critical circumstance affecting operations
 20 when and as changes are known or can be reasonably anticipated;

21 (j) A statement regarding any modifications or restrictions in service by either
 22 the commission or the contractee during emergencies;

23 (k) A statement delineating any special condition binding one (1) or both
 24 parties, or citation of a particular action that, if taken by either party or if
 25 either party allows a third party to take, will constitute a breach of contract
 26 or invoke specifically identified penalties;

27 (l) A statement requiring both parties to provide current contact information of

the respective parties' agents for both administrative matters and for emergencies; and

(m) A statement that the commission and the governing body of the contractee agree to meet at least annually to review any contract issues, assess service delivery, and plan for future service needs.

(5) Any contract entered into by the commission to supply designated wastewater services to either a member entity or other party shall provide that charges assessed by the commission and payments made by the entity or party shall be fair, just, and reasonable and shall be sufficient to cover all costs associated with the service. The commission's rates and charges may be modified to compensate for increased operating costs, pursuant to covenants set forth in contract. Contracts for services shall be fully binding on the parties but shall not be construed to be a debt of the commission member entities within the meaning of any statutory or constitutional limitations.

(6) If a commission contracts for management of a wastewater facility owned by a member entity or other party, the commission shall become a signatory on any federal, state, or local wastewater-related permits issued to and held by that member entity or other party.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The rates and charges to be assessed by the commission to its member entities and other parties shall be the verified cost of providing the services as prescribed in this section, and shall be allocated based on usage and the cost of service. However, if continuity of consumer service or the preservation of water quality is threatened by special circumstances affecting a public wastewater utility, the commission may establish special rates for that entity for a period not to exceed one (1) year so long as benefits to member entities are not jeopardized and

nonmembers are not adversely affected in any manner.

(2) The commission shall establish wholesale charges, rates, and terms for its services to its member entities and to any other party to which it provides service under contract that are fair, just, and reasonable and shall be sufficient at all times to:

(a) Pay the cost of operation and maintenance of any facility that it may own or lease to provide wastewater services contracted to its member entities or other parties;

(b) Pay the principal and interest on any bonds, loans, or other instruments or obligations secured in the name of the commission; and

(c) Provide an adequate fund for renewals, replacements, and reserves.

(3) The commission's procedure for establishing or changing rates and charges levied on member entities and other parties that contract for service shall be as follows:

(a) Every five (5) years, or more often if circumstances warrant, the commission shall procure, pursuant to KRS 45A.343, 45A.345 to 45A.460, 45A.735, 45A.740, 45A.745, and 45A.750 the professional consulting services of an independent accounting firm or individual accountant qualified and experienced in conducting cost-of-service studies. The commission shall invite the governing body of each member entity to designate a special representative to participate in the consultant selection process;

(b) The firm or individual selected in consultation with the commission's designated engineers, operators, and other knowledgeable individuals shall perform a cost-of-service study to:

1. Determine the actual or probable cost of operating and maintaining the commission's respective wastewater facilities;

1 2. Determine the cost of servicing any associated debt obligations and
 2 administrative costs;

3 3. Devise a comprehensive cost allocation plan and recommend that the
 4 commission establish and levy specific rates for treatment services and
 5 appropriate charges for other services to offset these costs; and

6 4. Devise and recommend a standard method of formulary whereby the
 7 commission may conduct regular financial analyses internally, based
 8 on sound accounting policy, allowing for the application of inflation
 9 indices and other equitable methods of determining service rates;

10 (c) The commission shall determine and set final rates and charges based on
 11 and only after:

12 1. The cost-of-service study and recommendations of the consultant are
 13 received;

14 2. Consultation with the governing bodies of member entities during the
 15 cost-of-service study; and

16 3. For a rate increase greater than five percent (5%), a vote approving
 17 the final rate by a majority of the legislative bodies of the member
 18 entities that comprise the wastewater commission or in the case of a
 19 special district or government agency, by the fiscal court of the county
 20 that contains the district or agency, which shall take action thirty (30)
 21 days after notice of the proposed final rate. Each legislative body of a
 22 member entity, or fiscal court in the case of a special district or
 23 government agency, shall have equal weight. Absent a majority vote,
 24 rates shall remain provisional and must be reset by the wastewater
 25 commission;

26 (d) Initial rates and charges and any subsequent changes to rates and charges
 27 of five percent (5%) or less shall be approved by the commission, but not

more than once in a twelve (12) month period. Increases above five percent (5%) shall remain provisional until action by the legislative bodies pursuant to paragraph (c) of this subsection; and

(e) The commission shall provide not less than sixty (60) days' written notice to the governing bodies of the member entities prior to the effective date of any change in rates or charges for service, which shall remain provisional until action by the legislative bodies of the member entities pursuant to paragraph (c) of this subsection.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of acquiring all or part of the facilities necessary to collect, transport, and treat wastewater, the commission may purchase facilities and equipment from member entities and others for mutually agreed upon terms not to exceed the actual value of the facilities and equipment. Notwithstanding any provision of law to the contrary, a member entity of the commission or other entity may convey ownership of the facility or equipment to the commission without an election or voter approval.

(2) If a member entity has any outstanding debt obligation related to any facility or equipment proposed to be acquired by the commission, the commission may either make sufficient purchase payment to the owner to cover debt obligations or assume the debt obligations in its name pursuant to a sales agreement and any other instruments deemed appropriate by legal counsel. If the commission makes cash payment to the owner for the equipment or facility, it shall be a condition of sale that any outstanding debt obligation associated with the equipment or facility be retired by the owner at the time of sale.

(3) The commission may secure funding from state and federal grants and loan programs, nonprofit associations, and private lending institutions and may issue

revenue bonds to acquire, construct, improve, or extend facilities for the collection, transportation, or treatment of wastewater. Loans and bonds shall be payable solely from the revenues derived pursuant to contracts for wastewater collection, transportation, and treatment services with member entities or other entities.

(4) For the purpose of securing appropriate sites, facilities, and required funding, the commission shall be vested with all the powers, duties, and responsibilities as delegated and granted to a governmental agency under the terms and provisions of KRS 58.010 to 58.190 and KRS Chapter 224A.

(5) A commission shall not assume responsibility for payment of any fines or penalties incurred by a member entity or other party and owed at the time of formation of a commission or contracting with that party, as a result of an agreed order, enforcement action, or other resolution of alleged violation of any provision of the Clean Water Act.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 220 IS CREATED TO READ AS FOLLOWS:

(1) If the rate increase in a service charge, rate, or user fee is greater than five percent (5%) of the previous charge, rate, or user fee then the increase shall be subject to the provisions of subsections (2) and (3) of this section.

(2) In a district consisting of only one (1) county, before a proposed service charge, rate, or user fee may be adopted by the district board of directors of a district, it shall receive the approval of the fiscal court or legislative body of the county having jurisdiction over the district.

(3) In a district governed by the provisions of KRS 220.135, or otherwise having jurisdiction in two (2) or more counties, before a proposed service charge, rate, or user fee may be adopted by the district board of directors, it shall receive the approval of a majority of the fiscal courts or legislative bodies of the counties

1 having jurisdiction over a part of the district. Each approval of a fiscal court
 2 shall be equally weighted.

3 (4) A service charge, rate, or user fee shall not be increased more than once in a
 4 twelve (12) month period.

5 (5) The provisions of this section shall not apply to a district formed under this
 6 chapter with fewer than ten thousand (10,000) customer accounts.

7 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO
 8 READ AS FOLLOWS:

9 (1) By January 1, 2012, the commissioners of a regional wastewater commission
 10 established under the provisions of Sections 1 to 12 of this Act shall provide
 11 public access to records relating to expenditures of the commission through
 12 display of the records on a Web site.

13 (2) The Web site shall be in a searchable format and shall provide financial
 14 information about expenditures not exempt under the provisions of state or
 15 federal law, including:

16 (a) The payee name;

17 (b) The category or type of expenditure;

18 (c) A description of the reason for the expenditure, if available;

19 (d) The expenditure amount;

20 (e) An electronic link to documents relating to the expenditure, if the
 21 documents are available electronically;

22 (f) The budget adopted by the commission and subsequent amendments to that
 23 budget;

24 (g) The completed annual audit results; and

25 (h) Any other information deemed relevant by the commission.

26 (3) Information on the Web site shall be updated at least on a monthly basis and
 27 shall be maintained on the Web site for at least three (3) years.

➔ SECTION 15. A NEW SECTION OF KRS CHAPTER 220 IS CREATED TO
READ AS FOLLOWS:

(1) By January 1, 2012, each district board of directors of a district shall provide public access to records relating to expenditures of the district through display of the records on a Web site.

(2) The Web site shall be in a searchable format and shall provide financial information about expenditures not exempt under the provisions of state or federal law, including:

(a) The payee name;

(b) The category or type of expenditure;

(c) A description of the reason for the expenditure, if available;

(d) The expenditure amount;

(e) An electronic link to documents relating to the expenditure, if the documents are available electronically;

(f) The budget adopted by the district and subsequent amendments to that budget;

(g) The completed annual audit; and

(h) Any other information deemed relevant by the district.

(3) Information on the Web site shall be updated at least on a monthly basis and shall be maintained on the Web site for at least three (3) years.

(4) The provisions of this section shall not apply to sanitation districts with fewer than ten thousand (10,000) customer accounts.

➔ Section 16. KRS 58.010 is amended to read as follows:

As used in KRS 58.010 to 58.140, unless the context requires otherwise:

(1) "Public project" means any lands, buildings, or structures, works or facilities (a) suitable for and intended for use as public property for public purposes or suitable for and intended for use in the promotion of the public health, public welfare or the

1 conservation of natural resources, including medical office buildings contiguous to
 2 hospital facilities, and shall also include the planning of any such lands, buildings,
 3 structures, works or facilities; or (b) suitable for and intended for use for the
 4 purpose of creating or increasing the public recreational, cultural and related
 5 business facilities of a community, including such structures as concert halls,
 6 museums, stadiums, theaters and other public facilities, together with related and
 7 appurtenant parking garages, offices and office buildings for rental in whole or in
 8 part to private tenants, dwelling units and apartment buildings for rental in whole or
 9 in part to private tenants, commercial and retail businesses, stores or other
 10 establishments, and any structure or structures or combination of the foregoing, or
 11 other structures having as their primary purpose the creation, improvement,
 12 revitalization, renewal or modernization of a central business or shopping
 13 community, and shall also include existing lands, buildings, structures, works and
 14 facilities, as well as improvements or additions to any such lands, buildings,
 15 structures, works or facilities.

16 (2) "Public project" as defined herein shall include projects intended for use as public
 17 property for public purposes by another governmental agency, including the United
 18 States government, other than the governmental agency acquiring the land or
 19 constructing the building, structure or facility.

20 (3) "Governmental agency" means the Commonwealth of Kentucky as such acting by
 21 or through any department, instrumentality or agency thereof, or any county, city,
 22 agency, or instrumentality, including a regional wastewater commission
 23 established under Sections 1 to 12 of this Act, or other political subdivision of the
 24 Commonwealth.

25 ➔Section 17. KRS 65.067 is amended to read as follows:

26 (1) All officers, officials, and employees of cities, counties, urban-county governments,
 27 charter county governments, a regional wastewater commission, and special

1 districts who handle public funds in the execution of their duties shall give a good
 2 and sufficient bond to the local governing body for the faithful and honest
 3 performance of his or her duties and as security for all money coming into that
 4 person's hands or under that person's control. The bond amount shall be based upon
 5 the maximum amount of public funds the officer, official, or employee handles at
 6 any given time during a fiscal year cycle. The local governing body shall pay the
 7 cost of the bond.

- 8 (2) Elected officials who post bond as required by statute, and employees of their
 9 offices covered by a blanket or umbrella bond, shall be deemed to have complied
 10 with subsection (1) of this section.

11 ➔Section 18. KRS 220.035 is amended to read as follows:

- 12 (1) A fiscal court may:

- 13 (a) Review and approve, amend, or disapprove proposed district land
 14 acquisitions;
 15 (b) Review and approve, amend, or disapprove proposed district construction of
 16 capital improvements; and
 17 (c) Except as provided under Section 13 of this Act, review and approve, amend,
 18 or disapprove proposed service charges or user fees not more than once in a
 19 twelve (12) month period; and
 20 (d) Review and approve, amend, or disapprove the district's proposed budget.

- 21 (2) In order to exercise any or all the powers enumerated in subsection (1) of this
 22 section, the fiscal court shall adopt a county ordinance explicitly stating which of
 23 the powers the fiscal court intends to exercise and setting forth the procedures by
 24 which the sanitation district shall submit plans and documentation for review and
 25 approval, amendment, or disapproval. The exercise of such powers shall become
 26 effective thirty (30) days following the effective date of the ordinance. In the case of
 27 districts lying in two (2) or more counties, no fiscal court shall exercise the powers

enumerated in subsection (1) of this section until each fiscal court has adopted conforming ordinances stating the powers to be exercised.

(3) In the case of districts lying in two (2) or more counties, the votes of the respective fiscal courts shall be weighted in the same manner as appointments to the district board are apportioned pursuant to KRS 220.140.

(4) In the case of districts governed by the provisions of KRS 220.135, the county judges/executive shall exercise the powers listed in subsection (1) of this section. They shall meet jointly at least once each fiscal year to exercise these powers. Their votes shall be equally weighted. *Service charges, rates, and user fees for districts with more than ten thousand (10,000) customer accounts shall be approved as set out in Section 13 of this Act*~~[In the case of review and approval of proposed service charges or user fees, a majority of the votes of the county judges/executive shall be required to override the recommendation of the district board of directors].~~

(5) Service charges, rates, and user fees in districts not governed by the provisions of KRS 220.135 or having more than ten thousand (10,000) customer accounts shall be approved as set out in Section 13 of this Act.

➔Section 19. KRS 224A.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administrative fee" means a fee assessed and collected by the authority from borrowers under assistance agreements, to be used for operational expenses of the authority;~~[-]~~

(2) "Applicable interest rate" means the rate of interest which shall be used as part of the repayment criteria for an assistance agreement between a governmental agency and the authority, and shall be determined by the authority pertinent to the source of funds from which the assistance agreement is funded;~~[-]~~

(3) "Assistance agreement" means the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter,

1 providing for a lease, loan, services, or grant to the governmental agency or for the
 2 purchase of obligations issued by the governmental agency, and for the repayment
 3 thereof to the authority by the governmental agency;[.]

4 (4) "Authority" means the Kentucky Infrastructure Authority, which is created by this
 5 chapter;[.]

6 (5) "Authority revenues" means the totality of all:

7 (a) Service charges;

8 (b) Utility tax receipts, to the extent not otherwise committed and budgeted by the
 9 authority during any fiscal period of the authority;

10 (c) Any gifts, grants, or loans received, to the extent not otherwise required to be
 11 applied;

12 (d) Any and all appropriations made to the authority by the General Assembly of
 13 the Commonwealth of Kentucky, to the extent not otherwise required to be
 14 applied;

15 (e) All moneys received in repayment of and for interest on any loans made by the
 16 authority to a governmental agency, except as provided in KRS 224A.111,
 17 224A.1115, and 224A.112, or as principal of and interest on any obligations
 18 issued by a governmental agency and purchased by the authority, or as receipts
 19 under any assistance agreement;

20 (f) The proceeds of bonds or long-term debt obligations of governmental
 21 agencies pledged to the payment of bond anticipation notes issued by the
 22 authority on behalf of the said governmental agency to provide interim
 23 construction financing; and

24 (g) Payments under agreements with any agencies of the state and federal
 25 government;[.]

26 (6) "Borrower or borrowing entity" means any agency of the state or its political
 27 subdivisions, any city, or any special district created under the laws of the state

1 acting individually or jointly under interagency or interlocal cooperative agreements
 2 to enter into assistance agreements with the authority;~~[-]~~

3 (7) "Community flood damage abatement project" means any structural or nonstructural
 4 study, plan, design, construction, development, improvement, or other activity to
 5 provide for flood control;~~[-]~~

6 (8) "Construction" means and includes but is not limited to:

7 (a) Preliminary planning to determine the economic and engineering feasibility of
 8 infrastructure projects, the engineering, architectural, legal, fiscal, and
 9 economic investigations, and studies necessary thereto, and surveys, designs,
 10 plans, working drawings, specifications, procedures, and other actions
 11 necessary to the construction of infrastructure or solid waste projects;

12 (b) The erection, building, acquisition, alteration, remodeling, improvement, or
 13 extension of infrastructure or solid waste projects; and

14 (c) The inspection and supervision of the construction of infrastructure or solid
 15 waste projects and all costs incidental to the acquisition and financing of
 16 same. This term shall also relate to and mean any other physical devices or
 17 appurtenances in connection with, or reasonably attendant to, infrastructure or
 18 solid waste projects;~~[-]~~

19 (9) "Dams" means any artificial barrier, including appurtenant works, which does or
 20 can impound or divert water, and which either:

21 (a) Is or will be twenty-five (25) feet or more in height from the natural bed of the
 22 stream or watercourse at the downstream toe of the barrier, as determined by
 23 the Energy and Environment Cabinet; or

24 (b) Has or will have an impounding capacity at maximum water storage elevation
 25 of fifty (50) acre feet or more;~~[-]~~

26 (10) "Distribution facilities" means all or any part of any facilities, devices, and systems
 27 used and useful in obtaining, pumping, storing, treating, and distributing water for

- 1 agricultural, industrial, commercial, recreational, public, and domestic use;[-]
- 2 (11) "Energy and Environment Cabinet" means the Kentucky Energy and Environment
 3 Cabinet, or its successor, said term being meant to relate specifically to the state
 4 agency which is designated as the water pollution agency for the Commonwealth of
 5 Kentucky, for purposes of the federal act;[-]
- 6 (12) "Federal act" means the Federal Clean Water Act (33 U.S.C. secs. 1251 et seq.) as
 7 said federal act may be amended from time to time in the future, or any other
 8 enactment of the United States Congress providing funds that may assist in carrying
 9 out the purposes of the authority;[-]
- 10 (13) "Federally assisted wastewater revolving fund" means that fund which will receive
 11 federal and state funds or the proceeds from the sale of revenue bonds of the
 12 authority for the purpose of providing loans to finance construction of publicly
 13 owned treatment works as defined in Section 212 of the federal act and for the
 14 implementation of a management program established under Section 319 of the
 15 federal act and for the development and implementation of a conservation and
 16 management plan under Section 320 of the federal act;[-]
- 17 (14) "Governmental agency" means any incorporated city or municipal corporation, or
 18 other agency, or unit of government within or a department or a cabinet of the
 19 Commonwealth of Kentucky, now having or hereafter granted, the authority and
 20 power to finance, acquire, construct, or operate infrastructure or solid waste
 21 projects. This definition shall specifically apply but not by way of limitation to
 22 incorporated cities; counties, including any counties containing a metropolitan
 23 sewer district; sanitation districts; water districts; water associations if these
 24 associations are permitted to issue interest-bearing obligations which interest would
 25 be excludable from gross income under Section 103 of the Internal Revenue Code
 26 of 1986 as amended; sewer construction districts; metropolitan sewer districts;
 27 sanitation taxing districts; *a regional wastewater commission established under*

Sections 1 to 12 of this Act; and any other agencies, commissions, districts, or authorities (either acting alone, or in combination with one another in accordance with any regional or area compact, or intergovernmental cooperative agreements), now or hereafter established in accordance with the laws of the Commonwealth of Kentucky having and possessing the described powers described in this subsection;[.]

(15) "Industrial waste" means any liquid, gaseous, or solid waste substances resulting from any process of industry, manufacture, trade, or business, or from the mining or taking, development, processing, or recovery of any natural resources, including heat and radioactivity, together with any sewage as is present therein, which pollutes the waters of the state, and specifically, but not by way of limitation, means heat or thermal differentials created in the waters of the state by any industrial processing, generating, or manufacturing processes;[.]

(16) "Infrastructure project" means any construction or acquisition of treatment works, facilities related to the collection, transportation, and treatment of wastewater as defined in Section 2 of this Act, distribution facilities, or water resources projects instituted by a governmental agency or an investor-owned water utility which is approved by the authority and, if required, by the Energy and Environment Cabinet, Public Service Commission, or other agency; solid waste projects; dams; storm water control and treatment systems; gas or electric utility; broadband deployment project; or any other public utility or public service project which the authority finds would assist in carrying out the purposes set out in KRS 224A.300;[.]

(17) "Infrastructure revolving fund" means that fund which will receive state funds, the proceeds from the sale of revenue bonds of the authority or other moneys earmarked for that fund for the purpose of providing loans or grants to finance construction or acquisition of infrastructure projects as defined in this section;[.]

(18) "Loan or grant" means moneys to be made available to governmental agencies by

- 1 the authority for the purpose of defraying all or any part of the total costs incidental
2 to construction or acquisition of any infrastructure project;[.]
- 3 (19) "Market interest rate" means the interest rate determined by the authority under
4 existing market conditions at the time the authority shall provide financial
5 assistance to a governmental agency;[.]
- 6 (20) "Obligation of a governmental agency" means a revenue bond, bond anticipation
7 note, revenue anticipation note, lease, or other obligation issued by a governmental
8 agency under KRS 58.010 et seq. or other applicable statutes;[.]
- 9 (21) "Person" means any individual, firm, partnership, association, corporation, or
10 governmental agency;[.]
- 11 (22) "Pollution" means the placing of any noxious or deleterious substances
12 ("pollutants"), including sewage and industrial wastes, in any waters of the state or
13 affecting the properties of any waters of the state in a manner which renders the
14 waters harmful or inimical to the public health or to animal or aquatic life, or to the
15 use, present or future, of these waters for domestic water supply, industrial or
16 agricultural purposes, or recreational purposes;[.]
- 17 (23) "Prioritization schedules" means the list of wastewater treatment works, distribution
18 facilities and water resources projects which the Energy and Environment Cabinet
19 has evaluated and determined to be of priority for receiving financial assistance
20 from the federally assisted wastewater revolving fund and the federally assisted
21 drinking water revolving fund, or the list of infrastructure projects which the
22 authority has evaluated and determined to be of priority for receiving financial aid
23 from the infrastructure revolving fund. The evaluation by the authority of
24 infrastructure projects for water systems shall be undertaken with input from the
25 appropriate area development district. The evaluation by the authority of
26 infrastructure for broadband deployment projects shall be undertaken with
27 consideration given to input from area development districts, telecommunications

businesses, information services, technology industries, governmental entities, and
 Kentucky-based nonprofit organizations, including ConnectKentucky;[-]

(24) "Solid waste project" means construction, renovation, or acquisition of a solid waste
 facility which shall be instituted and owned by a governmental agency;[-]

(25) "Recovered material" means those materials which have known current use, reuse,
 or recycling potential, which can be feasibly used, reused, or recycled, and which
 have been diverted or removed from the solid waste stream for sale, use, reuse, or
 recycling, whether or not requiring subsequent separation and processing but does
 not include materials diverted or removed for purposes of energy recovery or
 combustion except refuse-derived fuel (RDF), which shall be credited as a
 recovered material in an amount equal to that percentage of the municipal solid
 waste received on a daily basis at the processing facility and processed into RDF;
 but not to exceed fifteen percent (15%) of the total amount of the municipal solid
 waste received at the processing facility on a daily basis;[-]

(26) "Recovered material processing facility" means a facility engaged solely in the
 storage, processing, and resale or reuse of recovered material but does not mean a
 solid waste facility if solid waste generated by a recovered material processing
 facility is managed in accordance with KRS Chapter 224 and administrative
 regulations adopted by the cabinet;[-]

(27) "Revenue bonds" means special obligation bonds issued by the authority as
 provided by the provisions of this chapter, which are not direct or general
 obligations of the state, and which are payable only from a pledge of, and lien upon,
 authority revenues as provided in the resolution authorizing the issuance of the
 bonds, and shall include revenue bond anticipation notes;[-]

(28) "Service charge" means any monthly, quarterly, semiannual, or annual charge to be
 imposed by a governmental agency, or by the authority, for any infrastructure
 project financed by the authority, which service charge arises by reason of the

- 1 existence of, and requirements of, any assistance agreement;~~[-]~~
- 2 (29) "Sewage" means any of the waste products or excrements, or other discharges from
- 3 the bodies of human beings or animals, which pollute the waters of the state;~~[-]~~
- 4 (30) "Solid waste" means "solid waste" as defined by KRS 224.01-010(31)(a);~~[-]~~
- 5 (31) "Solid waste facility" means any facility for collection, handling, storage,
- 6 transportation, transfer, processing, treatment, or disposal of solid waste, whether
- 7 the facility is associated with facilities generating the waste or otherwise, but does
- 8 not include a container located on property where the waste is generated and which
- 9 is used solely for the purpose of collection and temporary storage of that solid waste
- 10 prior to off-site disposal, or a recovered material processing facility;~~[-]~~
- 11 (32) "Solid waste revolving fund" means that fund which shall receive state funds, the
- 12 proceeds from the sale of revenue bonds of the authority, or other moneys
- 13 earmarked for the purpose of providing loans or grants to finance solid waste
- 14 projects defined in this section;~~[-]~~
- 15 (33) "State" means the Commonwealth of Kentucky;~~[-]~~
- 16 (34) "System" means the system owned and operated by a governmental agency with
- 17 respect to solid waste projects, treatment works, or infrastructure projects financed
- 18 as provided by the assistance agreement between the governmental agency and the
- 19 authority;~~[-]~~
- 20 (35) "Treatment works" or "wastewater treatment works" means all or any part of any
- 21 facilities, devices, and systems used and useful in the storage, treatment, recycling,
- 22 and reclamation of wastewater or the abatement of pollution, including facilities for
- 23 the treatment, neutralization, disposal of, stabilization, collecting, segregating, or
- 24 holding of wastewater, including without limiting the generality of the foregoing,
- 25 intercepting sewers, outfall sewers, pumping power stations, and other equipment
- 26 and their appurtenances; extensions, improvements, remodeling, additions, and
- 27 alterations thereof, and any wastewater treatment works, including site acquisition

1 of the land that will be an integral part of the wastewater treatment process, or is
 2 used for ultimate disposal of residues resulting from wastewater treatment, together
 3 with any other facilities which are deemed to be treatment works in accordance with
 4 the federal act;[-]

5 (36) "Variable rate revenue bonds" means revenue bonds the rate of interest on which
 6 fluctuates either automatically by reference to a predetermined formula or index or
 7 in accordance with the standards set forth in KRS 224A.120;[-]

8 (37) "Wastewater" means any water or liquid substance containing sewage, industrial
 9 waste, or other pollutants or contaminants derived from the prior use of these
 10 waters;[-]

11 (38) "Water resources" means all waters of the state occurring on the surface, in natural
 12 or artificial channels, lakes, reservoirs, or impoundments, and in subsurface
 13 aquifers, which are available, or which may be made available to agricultural,
 14 industrial, commercial, recreational, public, and domestic users;[-]

15 (39) "Water resources project" means any structural or nonstructural study, plan, design,
 16 construction, development, improvement, or any other activity including programs
 17 for management, intended to conserve and develop the water resources of the state
 18 and shall include all aspects of water supply, **facilities to collect, transport, and**
 19 **treat wastewater as defined in Section 2 of this Act,** flood damage abatement,
 20 navigation, water-related recreation, and land conservation facilities and
 21 measures;[-]

22 (40) "Waters of the state" means all streams, lakes, watercourses, waterways, ponds,
 23 marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or
 24 accumulations of water, surface and underground, natural or artificial, which are
 25 situated wholly or partly within, or border upon, this state, or are within its
 26 jurisdiction, except those private waters which do not combine or effect a junction
 27 with natural, surface, or underground waters;[-]

1 (41) "Utility tax" means the tax which may be imposed by the authority on every
2 purchase of water or sewer service in the Commonwealth of Kentucky;~~[-]~~

3 (42) "Broadband deployment project" means the construction, provision, development,
4 operation, maintenance, leasing, or improvement of broadband infrastructure,
5 broadband services, or technologies that constitute a part of, or are related to,
6 broadband infrastructure or broadband services, to provide for broadband service in
7 unserved areas of the Commonwealth; and~~[-]~~

8 (43) "Unserved area" means any place where broadband service is not available.

9 ➔Section 20. KRS 278.010 is amended to read as follows:

10 As used in KRS 278.010 to 278.450, 278.541 to 278.544, 278.546 to 278.5462, and
11 278.990, unless the context otherwise requires:

12 (1) "Corporation" includes private, quasipublic, and public corporations, and all boards,
13 agencies, and instrumentalities thereof, associations, joint-stock companies, and
14 business trusts;

15 (2) "Person" includes natural persons, partnerships, corporations, and two (2) or more
16 persons having a joint or common interest;

17 (3) "Utility" means any person except *a regional wastewater commission established*
18 *pursuant to Section 3 of this Act and*, for purposes of paragraphs (a), (b), (c), (d),
19 and (f) of this subsection, a city, who owns, controls, operates, or manages any
20 facility used or to be used for or in connection with:

21 (a) The generation, production, transmission, or distribution of electricity to or for
22 the public, for compensation, for lights, heat, power, or other uses;

23 (b) The production, manufacture, storage, distribution, sale, or furnishing of
24 natural or manufactured gas, or a mixture of same, to or for the public, for
25 compensation, for light, heat, power, or other uses;

26 (c) The transporting or conveying of gas, crude oil, or other fluid substance by
27 pipeline to or for the public, for compensation;

1 (d) The diverting, developing, pumping, impounding, distributing, or furnishing
2 of water to or for the public, for compensation;

3 (e) The transmission or conveyance over wire, in air, or otherwise, of any
4 message by telephone or telegraph for the public, for compensation; or

5 (f) The collection, transmission, or treatment of sewage for the public, for
6 compensation, if the facility is a subdivision collection, transmission, or
7 treatment facility plant that is affixed to real property and is located in a
8 county containing a city of the first class or is a sewage collection,
9 transmission, or treatment facility that is affixed to real property, that is
10 located in any other county, and that is not subject to regulation by a
11 metropolitan sewer district or any sanitation district created pursuant to KRS
12 Chapter 220;

13 (4) "Retail electric supplier" means any person, firm, corporation, association, or
14 cooperative corporation, excluding municipal corporations, engaged in the
15 furnishing of retail electric service;

16 (5) "Certified territory" shall mean the areas as certified by and pursuant to KRS
17 278.017;

18 (6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is
19 being or has been substantially used to supply retail electric service and includes all
20 lines from the distribution substation to the electric consuming facility but does not
21 include any transmission facilities used primarily to transfer energy in bulk;

22 (7) "Retail electric service" means electric service furnished to a consumer for ultimate
23 consumption, but does not include wholesale electric energy furnished by an electric
24 supplier to another electric supplier for resale;

25 (8) "Electric-consuming facilities" means everything that utilizes electric energy from a
26 central station source;

27 (9) "Generation and transmission cooperative" or "G&T" means a utility formed under

- 1 KRS Chapter 279 that provides electric generation and transmission services;
- 2 (10) "Distribution cooperative" means a utility formed under KRS Chapter 279 that
3 provides retail electric service;
- 4 (11) "Facility" includes all property, means, and instrumentalities owned, operated,
5 leased, licensed, used, furnished, or supplied for, by, or in connection with the
6 business of any utility;
- 7 (12) "Rate" means any individual or joint fare, toll, charge, rental, or other compensation
8 for service rendered or to be rendered by any utility, and any rule, regulation,
9 practice, act, requirement, or privilege in any way relating to such fare, toll, charge,
10 rental, or other compensation, and any schedule or tariff or part of a schedule or
11 tariff thereof;
- 12 (13) "Service" includes any practice or requirement in any way relating to the service of
13 any utility, including the voltage of electricity, the heat units and pressure of gas, the
14 purity, pressure, and quantity of water, and in general the quality, quantity, and
15 pressure of any commodity or product used or to be used for or in connection with
16 the business of any utility, but does not include Voice over Internet Protocol (VoIP)
17 service;
- 18 (14) "Adequate service" means having sufficient capacity to meet the maximum
19 estimated requirements of the customer to be served during the year following the
20 commencement of permanent service and to meet the maximum estimated
21 requirements of other actual customers to be supplied from the same lines or
22 facilities during such year and to assure such customers of reasonable continuity of
23 service;
- 24 (15) "Commission" means the Public Service Commission of Kentucky;
- 25 (16) "Commissioner" means one (1) of the members of the commission;
- 26 (17) "Demand-side management" means any conservation, load management, or other
27 utility activity intended to influence the level or pattern of customer usage or

1 demand, including home energy assistance programs;

2 (18) "Affiliate" means a person that controls or that is controlled by, or is under common
3 control with, a utility;

4 (19) "Control" means the power to direct the management or policies of a person through
5 ownership, by contract, or otherwise;

6 (20) "CAM" means a cost allocation manual which is an indexed compilation and
7 documentation of a company's cost allocation policies and related procedures;

8 (21) "Nonregulated activity" means the provision of competitive retail gas or electric
9 services or other products or services over which the commission exerts no
10 regulatory authority;

11 (22) "Nonregulated" means that which is not subject to regulation by the commission;

12 (23) "Regulated activity" means a service provided by a utility or other person, the rates
13 and charges of which are regulated by the commission;

14 (24) "USoA" means uniform system of accounts which is a system of accounts for public
15 utilities established by the FERC and adopted by the commission;

16 (25) "Arm's length" means the standard of conduct under which unrelated parties, each
17 party acting in its own best interest, would negotiate and carry out a particular
18 transaction;

19 (26) "Subsidize" means the recovery of costs or the transfer of value from one (1) class
20 of customer, activity, or business unit that is attributable to another;

21 (27) "Solicit" means to engage in or offer for sale a good or service, either directly or
22 indirectly and irrespective of place or audience;

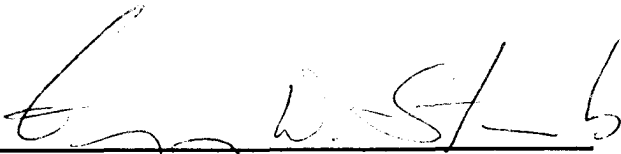
23 (28) "USDA" means the United States Department of Agriculture;

24 (29) "FERC" means the Federal Energy Regulatory Commission;

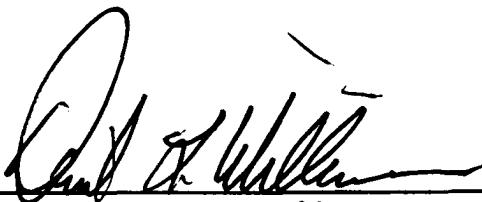
25 (30) "SEC" means the Securities and Exchange Commission;

26 (31) "Commercial mobile radio services" has the same meaning as in 47 C.F.R. sec. 20.3
27 and includes the term "wireless" and service provided by any wireless real time two

- 1 (2) way voice communication device, including radio-telephone communications
- 2 used in cellular telephone service, personal communications service, and the
- 3 functional or competitive equivalent of a radio-telephone communications line used
- 4 in cellular telephone service, a personal communications service, or a network radio
- 5 access line; and
- 6 (32) "Voice over Internet Protocol" or "VoIP" has the same meaning as in federal law.



Speaker-House of Representatives



President of Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date 3-17-11